

**ESSB 5432 - H AMD 546**

By Representative Williams

ADOPTED 04/20/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 90.56.005 and 2004 c 226 s 2 are each amended to read  
4 as follows:

5 (1) The legislature declares that (~~the increasing reliance on~~)  
6 water borne transportation as a source of supply for oil and hazardous  
7 substances poses special concern for the state of Washington. Each  
8 year billions of gallons of crude oil and refined petroleum products  
9 are transported as cargo and fuel by vessels on the navigable waters of  
10 the state. These shipments are expected to increase in the coming  
11 years. Vessels transporting oil into Washington travel on some of the  
12 most unique and special marine environments in the United States.  
13 These marine environments are a source of natural beauty, recreation,  
14 and economic livelihood for many residents of this state. As a result,  
15 the state has an obligation to ensure the citizens of the state that  
16 the waters of the state will be protected from oil spills.

17 (2) The legislature finds that prevention is the best method to  
18 protect the unique and special marine environments in this state. The  
19 technology for containing and cleaning up a spill of oil or hazardous  
20 substances is (~~in the early stages of development~~) at best only  
21 partially effective. Preventing spills is more protective of the  
22 environment and more cost-effective when all the response and damage  
23 costs associated with responding to a spill are considered. Therefore,  
24 the legislature finds that the primary objective of the state is to  
25 (~~adopt~~) achieve a zero spills strategy to prevent any oil or  
26 hazardous substances from entering waters of the state.

27 (3) The legislature also finds that:

28 (a) Recent accidents in Washington, Alaska, southern California,  
29 Texas, Pennsylvania, and other parts of the nation have shown that the

1 transportation, transfer, and storage of oil have caused significant  
2 damage to the marine environment;

3 (b) Even with the best efforts, it is nearly impossible to remove  
4 all oil that is spilled into the water, and average removal rates are  
5 only fourteen percent;

6 (c) Washington's navigable waters are treasured environmental and  
7 economic resources that the state cannot afford to place at undue risk  
8 from an oil spill; ~~((and))~~

9 (d) The state has a fundamental responsibility, as the trustee of  
10 the state's natural resources and the protector of public health and  
11 the environment to prevent the spill of oil; and

12 (e) In section 5002 of the federal oil pollution act of 1990, the  
13 United States congress found that many people believed that complacency  
14 on the part of industry and government was one of the contributing  
15 factors to the Exxon Valdez spill and, further, that one method to  
16 combat this complacency is to involve local citizens in the monitoring  
17 and oversight of oil spill plans. Congress also found that a mechanism  
18 should be established that fosters the long-term partnership of  
19 industry, government, and local communities in overseeing compliance  
20 with environmental concerns in the operation of crude oil terminals.  
21 Moreover, congress concluded that, in addition to Alaska, a program of  
22 citizen monitoring and oversight should be established in other major  
23 crude oil terminals in the United States because recent oil spills  
24 indicate that the safe transportation of oil is a national problem.

25 (4) In order to establish a comprehensive prevention and response  
26 program to protect Washington's waters and natural resources from  
27 spills of oil, it is the purpose of this chapter:

28 (a) To establish state agency expertise in marine safety and to  
29 centralize state activities in spill prevention and response  
30 activities;

31 (b) To prevent spills of oil and to promote programs that reduce  
32 the risk of both catastrophic and small chronic spills;

33 (c) To ensure that responsible parties are liable, and have the  
34 resources and ability, to respond to spills and provide compensation  
35 for all costs and damages;

36 (d) To provide for state spill response and wildlife rescue  
37 planning and implementation;

1 (e) To support and complement the federal oil pollution act of 1990  
2 and other federal law, especially those provisions relating to the  
3 national contingency plan for cleanup of oil spills and discharges,  
4 including provisions relating to the responsibilities of state agencies  
5 designated as natural resource trustees. The legislature intends this  
6 chapter to be interpreted and implemented in a manner consistent with  
7 federal law;

8 (f) To provide broad powers of regulation to the department of  
9 ecology relating to spill prevention and response;

10 (g) To provide for an independent (~~oversight board~~) oil spill  
11 advisory council to review on an ongoing basis the adequacy of oil  
12 spill prevention, preparedness, and response activities in this state;  
13 and

14 (h) To provide an adequate funding source for state response and  
15 prevention programs.

16 NEW SECTION. Sec. 2. A new section is added to chapter 90.56 RCW  
17 to read as follows:

18 (1)(a) There is established in the office of the governor the oil  
19 spill advisory council.

20 (b) The primary purpose of the council is to maintain the state's  
21 vigilance in, by ensuring an emphasis on, the prevention of oil spills  
22 to marine waters, while recognizing the importance of also improving  
23 preparedness and response.

24 (c) The council shall be an advisory body only.

25 (2)(a) In addition to members appointed under (b) of this  
26 subsection, the council is composed of the chair-facilitator and  
27 sixteen members representing various interests as follows:

28 (i) Three representatives of environmental organizations;

29 (ii) One representative of commercial shellfish interests;

30 (iii) One representative of commercial fisheries that primarily  
31 fishes in Washington waters;

32 (iv) One representative of marine recreation;

33 (v) One representative of tourism interests;

34 (vi) Three representatives of county government from counties  
35 bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait  
36 of Juan de Fuca/San Juan Islands;

37 (vii) One representative of marine labor;

1 (viii) Two representatives of marine trade interests;  
2 (ix) One representative of major oil facilities;  
3 (x) One representative of public ports; and  
4 (xi) An individual who resides on a shoreline who has an interest,  
5 experience, and familiarity in the protection of water quality.

6 (b) In addition to the members identified in this subsection, the  
7 governor shall invite the participation of tribal governments through  
8 the appointment of two representatives to the council.

9 (3) Appointments to the council shall reflect a geographical  
10 balance and the diversity of populations within the areas potentially  
11 affected by oil spills to state waters.

12 (4) Members shall be appointed by the governor and shall serve  
13 four-year terms, except the initial members appointed to the council.  
14 Initial members to the council shall be appointed as follows: Six  
15 shall serve two-year terms, six shall serve three-year terms, and seven  
16 shall serve four-year terms. Vacancies shall be filled by appointment  
17 in the same manner as the original appointment for the remainder of the  
18 unexpired term of the position vacated. Members serve at the pleasure  
19 of the governor.

20 (5) The governor shall appoint a chair-facilitator who shall serve  
21 as a nonvoting member of the council. The chair shall not be an  
22 employee of a state agency, nor shall the chair have a financial  
23 interest in matters relating to oil spill prevention, preparedness, and  
24 response. The chair shall convene the council at least four times per  
25 year. At least one meeting per year shall be held in a Columbia river  
26 community, an ocean coastal community, and a Puget Sound community.  
27 The chair shall consult with councilmembers in setting agendas and  
28 determining meeting times and locations.

29 (6) All members shall be reimbursed for travel expenses while  
30 attending meetings of the council or technical advisory committees as  
31 provided in RCW 43.03.050 and 43.03.060. Members of the council  
32 identified in subsection (2)(a)(i), (ii), (iii), (iv), (v), (vi),  
33 (vii), and (xi) of this section shall be compensated on a per diem  
34 basis as a class two group according to RCW 43.03.230.

35 (7) The first meeting of the council shall be convened by the  
36 governor or the governor's designee. Other meetings may be convened by  
37 a vote of at least a majority of the voting members of the council, or

1 by call of the chair. All meetings are subject to the open public  
2 meetings act. The council shall maintain minutes of all meetings.

3 (8) To the extent possible, all decisions of the council shall be  
4 by the consensus of the members. If consensus is not possible, nine  
5 voting members of the council may call for a vote on a matter. When a  
6 vote is called, all decisions shall be determined by a majority vote of  
7 the voting members present. Two-thirds of the voting members are  
8 required to be present for a quorum for all votes. The subject matter  
9 of all votes and the vote tallies shall be recorded in the minutes of  
10 the council.

11 (9) The council may form subcommittees and technical advisory  
12 committees.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW  
14 to read as follows:

15 (1) The duties of the council include:

16 (a) Selection and hiring of professional staff and expert  
17 consultants to support the work of the council;

18 (b) Early consultation with government decision makers in relation  
19 to the state's oil spill prevention, preparedness, and response  
20 programs, analyses, rule making, and related oil spill activities;

21 (c) Providing independent advice, expertise, research, monitoring,  
22 and assessment for review of and necessary improvements to the state's  
23 oil spill prevention, preparedness, and response programs, analyses,  
24 rule making, and other decisions, including those of the Northwest area  
25 committee, as well as the adequacy of funding for these programs;

26 (d) Monitoring and providing information to the public as well as  
27 state and federal agencies regarding state of the art oil spill  
28 prevention, preparedness, and response programs;

29 (e) Actively seeking public comments on and proposals for specific  
30 measures to improve the state's oil spill prevention, preparedness, and  
31 response program, including measures to improve the effectiveness of  
32 the Northwest area committee;

33 (f) Evaluating incident response reports and making recommendations  
34 to the department regarding improvements;

35 (g) Consulting with the department on lessons learned and agency  
36 progress on necessary actions in response to lessons learned;

1 (h) Promoting opportunities for the public to become involved in  
2 oil spill response activities and provide assistance to community  
3 groups with an interest in oil spill prevention and response, and  
4 coordinating with the department on the development and implementation  
5 of a citizens' involvement plan;

6 (i) Serving as an advisory body to the department on matters  
7 relating to international, national, and regional issues concerning oil  
8 spill prevention, preparedness, and response, and providing a mechanism  
9 for stakeholder and public consideration of federal actions relating to  
10 oil spill preparedness, prevention, and response in or near the waters  
11 of the state with recommended changes or improvements in federal  
12 policies on these matters;

13 (j) Accepting moneys from appropriations, gifts, grants, or  
14 donations for the purposes of this section; and

15 (k) Any other activities necessary to maintain the state's  
16 vigilance in preventing oil spills.

17 (2) The council shall establish a work plan for accomplishing the  
18 duties identified in subsection (1) of this section.

19 (3) The council is not intended to address issues related to spills  
20 involving hazardous substances.

21 (4) By September 15, 2006, the council shall recommend to the  
22 governor and appropriate committees of the legislature, proposals for  
23 the long-term funding of the council's activities and for the long-term  
24 sustainable funding for oil spill preparedness, prevention, and  
25 response activities.

26 (5) By September 1st of each year, the council shall make  
27 recommendations for the continuing improvement of the state's oil spill  
28 prevention, preparedness, and response activities through a report to  
29 the governor, the director, and the appropriate committees of the  
30 senate and house of representatives.

31 **Sec. 4.** RCW 90.56.060 and 2004 c 226 s 4 are each amended to read  
32 as follows:

33 (1) The department shall prepare and annually update a statewide  
34 master oil and hazardous substance spill prevention and contingency  
35 plan. In preparing the plan, the department shall consult with an  
36 advisory committee representing diverse interests concerned with oil  
37 and hazardous substance spills, including the United States coast

1 guard, the federal environmental protection agency, state agencies,  
2 local governments, port districts, private facilities, environmental  
3 organizations, oil companies, shipping companies, containment and  
4 cleanup contractors, tow companies, (~~and~~) hazardous substance  
5 manufacturers, and with the oil spill advisory council.

6 (2) The state master plan prepared under this section shall at a  
7 minimum:

8 (a) Take into consideration the elements of oil spill prevention  
9 and contingency plans approved or submitted for approval pursuant to  
10 this chapter and chapter 88.46 RCW and oil and hazardous substance  
11 spill contingency plans prepared pursuant to other state or federal law  
12 or prepared by federal agencies and regional entities;

13 (b) State the respective responsibilities as established by  
14 relevant statutes and rules of each of the following in the prevention  
15 of and the assessment, containment, and cleanup of a worst case spill  
16 of oil or hazardous substances into the environment of the state: (i)  
17 State agencies; (ii) local governments; (iii) appropriate federal  
18 agencies; (iv) facility operators; (v) property owners whose land or  
19 other property may be affected by the oil or hazardous substance spill;  
20 and (vi) other parties identified by the department as having an  
21 interest in or the resources to assist in the containment and cleanup  
22 of an oil or hazardous substance spill;

23 (c) State the respective responsibilities of the parties identified  
24 in (b) of this subsection in an emergency response;

25 (d) Identify actions necessary to reduce the likelihood of spills  
26 of oil and hazardous substances;

27 (e) Identify and obtain mapping of environmentally sensitive areas  
28 at particular risk to oil and hazardous substance spills;

29 (f) Establish an incident command system for responding to oil and  
30 hazardous substances spills; and

31 (g) Establish a process for immediately notifying affected tribes  
32 of any oil spill.

33 (3) In preparing and updating the state master plan, the department  
34 shall:

35 (a) Consult with federal, provincial, municipal, and community  
36 officials, other state agencies, the state of Oregon, and with  
37 representatives of affected regional organizations;

38 (b) Submit the draft plan to the public for review and comment;

1 (c) Submit to the appropriate standing committees of the  
2 legislature for review, not later than November 1st of each year, the  
3 plan and any annual revision of the plan; and

4 (d) Require or schedule unannounced oil spill drills as required by  
5 RCW 90.56.260 to test the sufficiency of oil spill contingency plans  
6 approved under RCW 90.56.210.

7 (4) The department shall evaluate the functions of advisory  
8 committees created by the department regarding oil spill prevention,  
9 preparedness, and response programs, and shall revise or eliminate  
10 those functions which are no longer necessary."

11 Correct the title.

EFFECT: Adds a chair-facilitator as a nonvoting member of the Oil Spill Advisory Council. Requires that the chair-facilitator must not be a state employee or must not have a financial interest in oil spill prevention and response. Adds an additional member representing marine labor interest to the Oil Spill Advisory Council, increasing the membership from 15 to 16 members. Authorizes members of the Oil Spill Advisory Council to be compensated on a per diem basis not to exceed \$100 per day. Directs the Oil Spill Advisory Council to recommend long-term funding for the council and oil spill response activities by September 15, 2006, rather than December 15, 2005. Directs the Department of Ecology to evaluate oil spill advisory committees and revise or eliminate functions which are no longer necessary. Removes definitions established for the Oil Spill Advisory Council and marine waters.

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